

Public Law 90-302

AN ACT

To amend the National School Lunch Act to strengthen and expand food service programs for children, and for other purposes.

May 8, 1968
[H. R. 15398]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3 of the National School Lunch Act (42 U.S.C. 1752) is amended by striking out "section 11" and inserting in lieu thereof "sections 11 and 13". Appropriations shall be considered Health, Education, and Welfare functions for budget purposes rather than functions of Agriculture.

National School
Lunch Act,
amendment.
76 Stat. 944.

SEC. 2. (a) Section 6 of the National School Lunch Act (42 U.S.C. 1755) is amended by inserting "except section 13" immediately after "Act," where it first appears.

60 Stat. 231.

(b) Section 9 of such Act is amended by inserting before the period at the end of the first sentence the following: "; except that such minimum nutritional requirements shall not be construed to prohibit the substitution of foods to accommodate the medical or other special dietary needs of individual students".

42 USC 1758.

SEC. 3. The National School Lunch Act is amended by adding at the end of the Act the following new section:

42 USC 1751
note.

"SPECIAL FOOD SERVICE PROGRAM FOR CHILDREN

"SEC. 13. (a) (1) There is authorized to be appropriated \$32,000,000 for each of the three fiscal years ending June 30, 1969, June 30, 1970, and June 30, 1971, to enable the Secretary to formulate and carry out a pilot program to assist States through grants-in-aid and other means, to initiate, maintain, or expand nonprofit food service programs for children in service institutions. For purposes of this section, the term 'service institutions' means private, nonprofit institutions or public institutions, such as child day-care centers, settlement houses, or recreation centers, which provide day care, or other child care where children are not maintained in residence, for children from areas in which poor economic conditions exist and from areas in which there are high concentrations of working mothers, and includes public and private nonprofit institutions providing day care services for handicapped children.

"(2) Subject to all the provisions of this section, the term 'service institutions' also includes public or private nonprofit institutions that develop special summer programs providing food service similar to that available to children under the National School Lunch or School Breakfast Programs during the school year, including such institutions providing day care services for handicapped children.

"Service insti-
tutions."

"(b) (1) Of the funds appropriated for the purposes of this section for any fiscal year, the Secretary shall reserve 2 per centum for apportionment to Guam, Puerto Rico, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands. Guam, Puerto Rico, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands shall each be paid an amount which bears the same ratio to the total of such reserved funds as the number of children aged three to seventeen, inclusive, in each bears to the total number of children of such ages in all of them.

"(2) From the remainder of the funds appropriated for any fiscal year, the Secretary shall pay to each State such sums as he deems ap-

propriate, but not more than \$50,000, as a basic grant. In addition, the Secretary shall allot to each State from the funds remaining after the basic grants have been made an amount which bears the same ratio to such remaining funds as the number of children in that State aged three to seventeen, inclusive, in families with incomes of less than \$3,000 per annum bears to the total number of such children in all the States. For the purposes of this paragraph, the term 'State' does not include Guam, Puerto Rico, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands.

"State."

"(c) (1) Funds paid to any State under this section shall be disbursed by the State educational agency to service institutions, selected on a nondiscriminatory basis by the State educational agency, (A) to reimburse the service institutions for the cost of obtaining agricultural commodities and other foods, and (B) for the purposes of paragraphs (2) and (3) of this subsection. The costs of obtaining agricultural commodities and other foods may include the cost of the processing, distributing, transporting, or handling thereof. Disbursement to participating service institutions shall be made at such rate of reimbursement per meal as the Secretary shall prescribe.

"(2) In circumstances of severe need where the rate per meal established by the Secretary is insufficient to carry on an effective feeding program, the Secretary may authorize financial assistance not to exceed 80 per centum of the operating costs of such a program, including the cost of obtaining, preparing, and serving food. In the selection of institutions to receive assistance under this subsection, the State educational agency shall require the applicant institutions to provide justification of the need for such assistance.

"(3) Not to exceed 25 per centum of the funds paid to any State may be used by the State to assist service institutions by paying not to exceed 75 per centum of the cost of the purchase or rental of equipment, other than land and buildings, for the storage, preparation, transportation, and serving of food to enable the service institutions to establish, maintain, and expand food service under this section.

"(d) If in any State the State educational agency is not permitted by law or is otherwise unable to disburse the funds paid to it under this section to any service institution in the State, the Secretary shall withhold all funds apportioned under this section and shall disburse the funds so withheld directly to service institutions in the State for the same purpose and subject to the same conditions as are required of a State educational agency disbursing funds made available under this section.

Unobligated funds, availability.

"(e) Notwithstanding the provisions of any other law, balances of funds appropriated for the purposes of this section and unobligated at the end of any fiscal year shall remain available for obligation during the first three months of the following fiscal year.

"(f) Service institutions to which funds are disbursed under this section shall serve meals consisting of a combination of foods and meeting minimum nutritional standards prescribed by the Secretary on the basis of tested nutritional research. Such meals shall be served without cost or at a reduced cost to children determined by the service institutions to be unable to pay the full cost. In making such determination, service institution authorities should, to the extent practicable, consult with public welfare and health agencies. No physical segrega-

Discrimination, prohibition.

tion or other discrimination against any child shall be made because of his inability to pay.

“(g) If any State cannot utilize all funds apportioned to it, or if additional funds are made available for apportionment among the States, under this section, the Secretary shall make further apportionments to the remaining States in the manner prescribed in subsection (b).

“(h) (1) The Secretary shall certify to the Secretary of the Treasury from time to time the amounts to be paid to any State under this section of the Act and the time or times such amounts are to be paid; and the Secretary of the Treasury shall pay to the State at the time or times fixed by the Secretary the amounts so certified.

“(2) Each service institution participating under this section shall, insofar as practicable, utilize in its program foods designated from time to time by the Secretary as being in abundance, either nationally or in the institution area, or foods donated by the Secretary. Irrespective of the amount of funds appropriated under this section, foods available under section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431) or purchased under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), or section 709 of the Food and Agriculture Act of 1965 (7 U.S.C. 1446a-1), may be donated by the Secretary to service institutions in accordance with the needs as determined by authorities of these institutions for utilization in their feeding programs.

“(3) The value of assistance to children under this section shall not be considered to be income or resources for any purpose under any Federal or State laws, including laws relating to taxation and welfare and public assistance programs. Expenditures of funds from State and local sources for the maintenance of food programs for children shall not be diminished as a result of funds received under this section.

“(4) There is hereby authorized to be appropriated for any fiscal year such sums as may be necessary to the Secretary for his administrative expenses under this section.

“(5) States, State educational agencies, and service institutions participating in programs under this section shall keep such accounts and records as may be necessary to enable the Secretary to determine whether there has been compliance with this section and the regulations hereunder. Such accounts and records shall at all times be available for inspection and audit by representatives of the Secretary and shall be preserved for such period of time, not in excess of five years, as the Secretary determines is necessary.”

SEC. 4. The first sentence of section 7 of the Child Nutrition Act of 1966 (42 U.S.C. 1776) is amended by adding immediately before the period at the end thereof “and under sections 11 and 13 of the National School Lunch Act”. The second sentence of such section 7 is amended by striking out “section 11” and inserting in lieu thereof “sections 11 and 13”.

SEC. 5. Section 4(a) of the Child Nutrition Act of 1966 (42 U.S.C. 1773(a)) is amended to read as follows:

“SEC. 4. (a) There is hereby authorized to be appropriated for the fiscal year 1969, \$6,500,000; and for the fiscal year 1970 not to exceed \$10,000,000; and for the fiscal year 1971 not to exceed \$12,000,000 to carry out a program to assist the States through grants-in-aid and other means to initiate, maintain, or expand nonprofit breakfast programs in schools. Appropriations and expenditures for this Act shall be considered Health, Education, and Welfare functions for budget purposes rather than functions of Agriculture.”

Approved May 8, 1968.

68 Stat. 458.
49 Stat. 774.
79 Stat. 1212.

Recordkeeping.

80 Stat. 883.

School break-
fast program.
80 Stat. 886.